

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD RICHARD and  
SANDRA RICHARD,

Plaintiffs,

vs.

OAK TREE GROUP, INC.,

Defendant.

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Case No. 1:06-cv-362

Hon. Hugh W. Brenneman, Jr.

**ORDER**

The court denied plaintiffs' first motion for class certification. This matter is now before the court on plaintiffs' second motion for class certification (docket no. 71).

Plaintiffs' First Amended Complaint identifies the following class:

Plaintiffs Donald and Sandra Richard bring this action on behalf of themselves and a class of similarly situated persons pursuant to Rule 23, Fed. R. Civ. P. The class is defined as follows: (a) All persons residing in the State of Michigan to whom defendant mailed collection letters within six years before the filing of this action (b) where the collection letter included an amount added to the alleged debt as a collection fee and (c) where the collection letter did not inform the consumer that the amount claimed included an amount as collection fee.

The present motion seeks to certify a different class:

All consumers residing in the State of Michigan to whom defendant mailed collection letters (a) after May 24, 2004 and prior to filing suit, (b) where the collection letter included an amount added to the alleged debt as a collection fee, (c) where the collection letter did not inform the consumer that the amount claimed included an amount as collection fee and (d) where the letter was not returned to the defendant by the U.S. Postal Service as undeliverable.

The present motion fails because the class that plaintiffs seek to certify is different from the class as defined in the first amended complaint. *See Crown, Cork & Seal Co. v. Parker*, 462 U.S. 345, 353 (1983) (“a class complaint notifies the defendants not only of the substantive claims being brought against them, but also of the number and generic identities of the potential plaintiffs who may participate in the judgment”) (internal quotation omitted); *Johnson v. Riddle*, No. 2:98-cv-599, 2007 WL 528719 at \*4 (D. Utah Feb. 15, 2007) (it is the class complaint, not a motion for class certification, that notifies the defendants of the substantive claims against them, as well as the number and generic identities of the potential class members). Accordingly, plaintiffs’ motion is **DENIED**.

**IT IS SO ORDERED.**

Dated: February 12, 2008

/s/ Hugh W. Brenneman, Jr.  
HUGH W. BRENNEMAN, JR.  
United States Magistrate Judge